

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

DUSTIN LANCE

Plaintiff,

V.

BOARD OF COUNTY COMMISSIONERS  
OF PITTSBURG COUNTY, OKLAHOMA,  
*et al.*

Defendants.

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Case No.: CIV-17-378-RAW

**DEFENDANT SMEAD'S MOTION TO BE EXCUSED  
FROM ATTENDANCE AT SETTLEMENT CONFERENCE  
AND TO PARTICIPATE TELEPHONICALLY**

The parties are set for a Settlement Conference on March 10, 2022 at 10:00 am in front of Magistrate Judge Shreder. Pursuant to the Settlement Conference Order, [Doc. 232], parties are required to attend this conference unless excused by the Settlement Judge. Defendant Michael Smead, a former jailer at the Pittsburg County jail, hereby requests he be excused from in-person attendance for the below reason. If this request is granted, he will be able to participate telephonically. Plaintiff's counsel objects to this request. Co-Defendant's counsel does not object. Defendant Smead states as follows:

1. Defendant Mike Smead was hospitalized in late January for over two weeks with serious Covid and heart complications. He has had congestive heart failure for several years and physicians have recommended a heart transplant. In the last few months, he has had issues with blood clots in his heart, lungs and legs. Although no

longer in the hospital, Smead is not fully recovered and chiefly has been homebound since early February.

2. The negotiations between Plaintiff and Defendants in this matter will be controlled at the Settlement Conference by those in attendance on behalf of Defendant Board of County Commissioners of Pittsburg County, as is typical. Defendant Smead has minimal assets, and his liability/ presence as a Defendant is anticipated to be covered by any offers or counteroffers made by Co-Defendants. As such, the lack of Smead's physical presence at the Settlement Conference will not be a hindrance or pose any obstacle to an efficient and productive process. If allowed to be excused, he will be available throughout the day on his cellular phone.

3. Although Plaintiff's counsel was not informed of the *extent* and *severity* of Mr. Smead's health issues but was informed of hospitalization/ health and child care issues, Plaintiff objects to this request.

4. As noted above, Mr. Smead's physical presence or absence will not affect the negotiation process and is not expected to affect the result of the Settlement Conference, and if allowed, Mr. Smead will be present telephonically.

Accordingly, Defendant Mike Smead hereby respectfully requests that he, for the reasons outlined above, be granted leave so as to not be required to attend the Settlement Conference in person but be allowed to participate telephonically.

Respectfully submitted,

s/ Carson C. Smith

Robert S. Lafferrandre, OBA No. 11897

Carson C. Smith, OBA No. 22303

PIERCE COUCH HENDRICKSON

BAYSINGER & GREEN, L.L.P.

1109 N. Francis

Oklahoma City, Oklahoma 73106

Telephone: (405) 235-1611

Facsimile: (405) 235-2904

rlafferrandre@piercecouch.com

csmith@piercecouch.com

*Attorneys for Defendants*

*Mike Smead and Edward Morgan*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8th day of March 2022, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Jon M. Williford      [jwillifordlaw@gmail.com](mailto:jwillifordlaw@gmail.com)

Jason B. Reynolds      [jasrey@aol.com](mailto:jasrey@aol.com)

Billy Griffin      [oculaw2@aol.com](mailto:oculaw2@aol.com)

GRIFFIN REYNOLDS & ASSOCIATES

-and-

Steven J. Terrill      [sjterrell@bryanterrill.com](mailto:sjterrell@bryanterrill.com)

J. Spencer Bryan      [jsbryan@bryanterrill.com](mailto:jsbryan@bryanterrill.com)

BRYAN & TERRILL LAW, PLLC

*Attorneys for Plaintiff*

Andy A. Artus      [aaa@czwlaw.com](mailto:aaa@czwlaw.com)

Jamison C. Whitson      [jcw@czwlaw.com](mailto:jcw@czwlaw.com)

Michael L. Carr      [mlc@czwlaw.com](mailto:mlc@czwlaw.com)

Taylor M. Riley      [tmr@czwlaw.com](mailto:tmr@czwlaw.com)

COLLINS ZORN & WAGNER, PC

*Attorneys for Defendant Board of County Commissioners  
of Pittsburg County, Chris Morris, Joel Kerns as Sheriff of Pittsburg  
County, Dakota Morgan, Stephen Sparks and Doris Crawford*

David A. Russell      [drussell@rodolftodd.com](mailto:drussell@rodolftodd.com)

Emily Jones Ludiker      [emily@rodolftodd.com](mailto:emily@rodolftodd.com)

John Paul Yeager      [john@rodolftodd.com](mailto:john@rodolftodd.com)

*Attorneys for Defendant Gary M. Lee, MD and McAlester Regional Health Center*

Seth D. Coldiron      [scoldiron@gphglaw.com](mailto:scoldiron@gphglaw.com)

*Attorney for Defendant, Joel Kerns, in his individual capacity*

s/ Carson C. Smith

Carson C. Smith